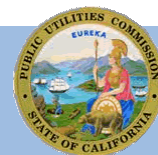


Communications Daily



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Top News

States Blame Charter for ETC Delay	2
SpaceX License Mod Appeals May Face Steep Odds.....	4
Talks Ongoing on NG-911 in Lift America Act	5
NGSO Concerns, DBS Fight With Cable on FCC Fees	6

Comm Daily® Notebook

ITI Says FCC CVAA Rules OK; NFB Wants More	7
--	---

Coronavirus

Small Providers Face EBB Enrollment Issues: NTCA.....	7
---	---

Wireline

DC Circuit Denies Telco Suit on FCC Hurricane Relief.....	7
Comments Due June 18 on Cox/Segra	8
Comments Due June 18 on FirstDigital/Veracity	8

Wireless

AT&T Satisfied With Spectrum Position	8
NTIA Seeks Prototype, Off-Shelf Gear for ORAN Tests	8
Boeing Urges FCC Drone Rulemaking	8

Internet

Facebook Bans Trump Until at Least January 2023.....	9
EC, UK Probing Facebook Over Antitrust	9

State Telecom

NetChoice, CCIA Ask Court to Quickly Block Fla. Social Media Law	9
Conn. Legislators Back Free Prison Calls	9
Colo. Lawmakers Pass 988 Hotline Bill.....	10

International Telecom

Biden EO 'Abuses State Power' for Barring China Investments: Chinese	10
--	----

Telecom Notes

CGB Making National Deaf-Blind Allocations.....	10
---	----

Consumer Electronics

Walmart Phones Act as Scanners, Time Clocks: Samsung..... 10

Intellectual Property

EC Revamped Data Transfer SCCs Get Some Tech Backing 11

Broadcast

FCC MB Reinstates SCOTUS-Revived Ownership Changes..... 11

Cable

Connected TV Viewing Leveled Off After Pandemic Spike: LRG 11

Comcast Shareholders Reject Sex Harassment Proposal 12

Media Notes

CALM Act Works as Intended: ACA, NCTA..... 12

Satellite

DC Circuit Rejects Foreign Satellite Fees Challenge 12

Hispanar Petitions for More Bands for Amazonas-2..... 13

Communications Personals..... 13

Communications Daily Calendar 13

Top News

RDOF Milestone Looms

States Blame Charter for ETC Delay

Not meeting deadlines for using FCC high-cost USF funds to further roll out broadband could imperil other auction winners that played by the rules, some said in recent interviews. Charter Communications, which received \$1.2 billion to serve more than 1 million locations (see [2012070039](#)), is among rural Digital Opportunity Fund Phase I auction winners seeking waivers to extend the June 7 eligible telecom carrier certification deadline.

Charter wasn't sure it will receive ETC OK in Florida, Louisiana, Pennsylvania, Virginia and Wisconsin (see [here](#) and [2106020060](#)). State commissions say the company bears some responsibility.

Providers that provisionally won bids need ETC clearance for the census blocks they won. Several told the FCC it's unlikely they will get it by Monday's deadline. Such delays could push back FCC staff efforts (see [2103080042](#)). The regulator didn't comment Friday.

The Wisconsin Public Service Commission cleared Charter's application Thursday and completed all RDOF ETC designations on time, a spokesperson said. The Pennsylvania Public Utility Commission "does not anticipate acting" by Monday on Charter's application, the PUC [wrote](#) the company May 24. "Assuming continued cooperation" by the company, the commission expects to vote "in the near future." The commission [approved](#) four other entities' ETC applications in late April and is reviewing 12 winning bidders' applications, a spokesperson said now.

Charter's ETC application was on the April 14 and May 19 agendas at the Louisiana Public Service Commission, but the company twice asked the state agency to defer consideration, said a PSC spokesperson: it now will be on the June 16 agenda. The PSC approved RDOF ETC status for 11 other entities, and only Charter remains, the spokesperson said.

At the May 19 meeting, Commissioner Eric Skrmetta (R) asked about the June 7 deadline, per a transcript. "The company interprets it differently and the company was the one who requested that this matter be deferred and so it's their position that the deadline is a little less concrete than what Staff has interpreted," replied PSC Executive Counsel Kathryn Bowman. So, Charter would "proceed at their own detriment," Skrmetta said. "I'd want to make sure that they carry the full weight of this issue and none of the dirt on the shoes is going to be thrown at the feet of the commission for us failing to do something."

"Staff has concluded that the company is eligible to become an ETC and recommends approval, so that's not the issue," said Adams and Reese's Rob Rieger on behalf of the cable ISP. "There are just some issues on the backend that we were trying to see if we could work out." Rieger agreed that "the company is aware of what you're saying and that it would proceed at its own risk if you all do not take this on today." A Charter spokesperson told us Friday it had "done what was asked of us, and we followed the rules."

The Florida PSC was ready to vote on Charter's application March 2 after drafting a Feb. 18 recommendation, but Charter requested deferral, a commission spokesperson said. Charter asked May 14 that it be considered at the next meeting, which is June 15, said the representative, saying the PSC will consider another entity's late-filed ETC petition then. The PSC earlier approved one petition and referred three others to the FCC due to lack of jurisdiction, she said. Charter said it "sought additional time from staff as the details of our applications were finalized" in both Louisiana and Florida, "but our requests for designation as an eligible telecommunications carrier continue to move forward and we are optimistic they will be before the agencies for consideration very soon."

At the Virginia State Corporation Commission, Charter waited until May 18 to supplement its original Jan. 6 application, resulting in the agency revising its scheduling order, said VSCC Information Re-

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sources Division Director Ken Schrad. Staff [said](#) Friday in docket PUR-2021-00009 it doesn't oppose the ETC. Charter has until June 11 to respond. "The Commission makes its decisions 'in camera' and would enter a final order in the case system when that decision is rendered," and depending on Charter's response, that could be "fairly quick," said Schrad.

Obtaining these nods is a "really important part of the process," said NTCA Senior Vice President-Industry Affairs Mike Romano: "That it may be taking more time says that more time is needed to make sure these parties can perform as promised." The June 7 deadline was largely intended to ensure providers were pursuing ETC designation on a timely basis, Romano said.

Hankins Information Technology won nearly \$2.2 million to serve 3,727 locations in California. It [told](#) the FCC in its waiver request that the California Public Utilities Commission hasn't decided when it will consider Hankins' ETC application (see [2106020060](#)). "The CPUC is reviewing the application and information provided by Hankins," a spokesperson said Friday: SpaceX and five other applications are also under review, and the agency hasn't received applications from LTD Broadband or Commnet Wireless. Commissioners [approved](#) five other applicants during a June 3 meeting. Hankins' James Hankins said he isn't too concerned. "Unfortunately, CPUC takes a long time to get things like this done," he said: "We anticipate that our request for extension will be accepted."

It's likely the FCC will act on the waiver requests next week, said Partner Jonathan Chambers of the Conexon rural electric cooperative consulting firm. The June 7 deadline is "meant to be taken seriously," Chambers said, but "the FCC in the past has been understanding." Providers were encouraged to obtain ETC designation early on, with a Jan. 6 safe harbor deadline, so the FCC could be less sympathetic to Charter and others for not seeking the designation before then and are at risk of missing Monday's deadline, Chambers said. "Everybody really should have gotten the stuff in on Jan. 6." — *Gabriella Novello and Adam Bender*

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NEPA

SpaceX License Mod Appeals May Face Steep Odds

Balance Group, Dish Network and Viasat lawsuits challenging the FCC's April SpaceX license modification (see [2104260077](#)) are considered a long shot, experts told us. They cited an environmental law, among other reasons why the commission's ruling may be judicially upheld. The appellants didn't comment Thursday.

If there's no ceiling for National Environmental Policy Act, NEPA will be used as "a legal weapon" to delay or forestall competition as operators argue for environmental assessments or challenge the assessments, said Space Law and Policy Solutions' Michael Listner. He said the appeals could create expensive environmental regulation problems for all satellite operators if the U.S. Court of Appeals for the D.C. Circuit buys in. He said the FCC excluded satellites from NEPA requirements and has environmental rules in the form of orbital debris regulations. The FCC didn't comment this past week.

Vermont Law environmental law professor Pat Parenteau said NEPA's territorial reach has been a frequent subject of litigation, and courts generally feel it doesn't apply outside U.S. boundaries, so the global commons or outer space "would be a difficult argument." He said courts generally presume what regulatory agencies have done is correct and within their authority, except if the petitioners can point to significant impacts the agency failed to consider.